IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WRS, INC., d/b/a WRS MOTION PICTURE LABORATORIES, a corporation Plaintiff, v. PLAZA ENTERTAINMENT, INC., a Corporation, ERIC PARKINSON, an individual, CHARLES von BERNUTH, an individual, and JOHN HERKLOTZ, an individual Defendants	)	No. 2:00-CV-2041-AJS

MOTION FOR RECONSIDERATION OR FOR RELIEF FROM JUDGMENT

Defendant Eric Parkinson, filing Pro Se on his own behalf and pursuant to Federal Rule of Civil Procedure 60 (b)(6), or, in the alternative, pursuant to this Court's inherent authority to reconsider its prior rulings, hereby files this Motion for Reconsideration or for Relief from Judgment, and support thereof avers as follows:

1. Through the history of this case, Defendant Eric Parkinson, as well as Defendants Charles von Bernuth and Plaza Entertainment, Inc., were represented by John W. Gibson, a member of the bar of the Supreme Court of Pennsylvania and of this Court (Affidavit of John W. Gibson in Support of Defendant's Request for Relief Under Fed. R. Civ. P. 60, pars. 3-4).

2. From the beginning of this seven-year representation, Attorney Gibson made only sporadic and cursory of reports to Mr. Parkinson, with months and sometimes even more than a year passing with no contact between Attorney Gibson and Mr. Parkinson.

3. This lack of communication did not cause me alarm. I have no prior experience with Pennsylvania litigation and did not know what level of communication to expect from

attorney Gibson. Moreover, the reports that I did receive from Attorney Gibson indicated that the case was proceeding well in favor of the Plaza claims of financial offset as well as towards relief of former Plaza officers and shareholders which Plaintiff WRS, Inc. ("WRS") named as additional defendants under their claim that these individuals, including myself, were purported to be "guarantors" of the Plaza account.

4. Indeed, by Order of February 14, 2002, the case was administratively closed, an on September 15, 2003, this Court denied a motion by WRS to reopen the case.

5. WRS took an appeal from the denial of its motion to reopen the case, and, following that appeal, on July 29, 2005, this Court entered an order reopening the case.

6. On March 9, 2006, a status/settlement conference was conducted. At that conference, the Court set March 23, 2006 as the date for parties to file motions for summary judgment. This Court also determined that the parties should at their equal cost employ Schneider Downs as an accountant to review WRS's account records, which were in dispute (Gibson Affidavit, par. 9).

7. Attorney Gibson never contacted me, on behalf of myself as an individual, nor as a representative of Defendant Plaza Entertainment, Inc., to inform me of this status conference, the subsequent plans for an audit of accounting records, filing of motions or any other activities or relating to the case.

8. The only contact I received from Attorney Gibson from January, 2006 until May, 2007, were occasional, mailed billing statements of monies due with no explanation as to the status of the case or detail of the work performed. In response to a billing statement, on March 8, 2007, I sent a payment of five-hundred dollars ($500) to Attorney Gibson, despite having no explanation from him as to the status of the case or the nature of the billing.

9. Attorney Gibson never followed up with me to discuss any aspects of the case, and never informed me of ongoing activities, including an audit for which both Plaza Entertainment, Inc. and myself, individually, would be partially responsible to pay.

10. In fact, on April 12, 2006, about a month after the case status/settlement conference that Attorney Gibson attended, WRS filed a Motion to Show Cause Why a Default Should Not be Entered as to Defendants Charles von Bernuth, Eric Parkinson and Plaza Entertainment, Inc. The Motion recited Attorney Gibson's failure to file a Motion for Summary Judgment on behalf of the Defendants and the failure to make a payment of the portion of the accountant's fee as a purported basis for concluding that Charles von Bernuth, Eric Parkinson and Plaza Entertainment, Inc. no longer intended to defend the matter.

11. Attorney Gibson neither notified Mr. Parkinson or Plaza Entertainment, Inc. of the filing of this Motion, nor filed any response on behalf of Eric Parkinson or Plaza Entertainment, Inc. (Gibson Affidavit, pars. 22-23).

12. On April 18 2006, this Court entered an Order requiring Charles von Bernuth, Eric Parkinson and Plaza Entertainment, Inc. to show cause why they should not be defaulted. A response date of April 25, 2006 was set.

13. Attorney Gibson again failed to advise any of the Defendants, including Eric Parkinson and Plaza Entertainment, Inc. of the filing of this Order, and Attorney Gibson did not respond to the Order (Gibson Affidavit, par. 25).

14. On April 28, 2006, the Court directed the Clerk to enter a default under Rule 55(a) against Defendants Charles von Bernuth, Eric Parkinson and Plaza Entertainment, Inc., and a default was entered that same day.

15. Continuing his pattern of gross neglect of his professional obligations to all

Defendants, Attorney Gibson did not advise any of the Defendants, including Eric Parkinson and Plaza Entertainment, Inc. of the entry of a default (Gibson Affidavit, par. 27). Likewise, he did not take any action on behalf of the Defendants to open the default or have the matter reconsidered (Gibson Affidavit, par. 28).

16. On October 13, 2006, a Motion for Default Judgment was filed against Defendants Eric Parkinson and Plaza Entertainment, Inc.. The Motion sought to fix the amount of liability in excess of $2.5 Million.

17. Again, in gross dereliction of his duties, Attorney Gibson failed to notify Eric Parkinson and Plaza Entertainment, Inc. of this Motion (Gibson Affidavit, par. 30). He also failed to make any response to the Motion on behalf of either Eric Parkinson or Plaza Entertainment, Inc. (Gibson Affidavit, par. 30).

18. On February 20, 2007, the Court entered an Order granting a judgment against both Eric Parkinson and Plaza Entertainment, Inc., in the sum of $2,584,749.03.

19. Not surprisingly, Attorney Gibson did not notify Eric Parkinson or Plaza Entertainment, Inc. that a judgment of more than $2.5 Million had been entered against both parties, as well as against co-Defendant Charles von Bernuth (Gibson Affidavit, pars. 35-36, 41 -42). Attorney Gibson made no attempt to induce the Court to reconsider the judgment. He filed no appeal from the judgment. He simply did nothing (Gibson Affidavit, pars. 34-38).

20. On May 21, 2007, I sent an email to co-Defendant Charles von Bernuth on which Attorney Gibson was copied (See Exhibit 1 to Exhibit A hereto). In the email, I expressed my belief to Mr. von Bernuth that the case against myself, von Bernuth and Plaza Entertainment, Inc. had been dismissed, as I was completely unaware of any activities that had occurred in the prior two years.

21. Attorney Gibson emailed me back a response in which he informed me ***for the first time*** that default judgments had been entered against myself, against Plaza Entertainment, Inc. and against Charles von Bernuth (Gibson Affidavit, par. 36, Exhibit 1 to Gibson Affidavit).

22. Even then, however, Attorney Gibson sought to minimize the significance of such judgments, stating that there was a strong basis for reversal on appeal, notwithstanding the fact that the appeal to which he referred was taken only by Defendant John Herklotz (Gibson Affidavit 37; Exhibit 1 to Gibson Affidavit). He indicated to me that he would be willing to enter an appearance in the Herklotz appeal if I would bring my account balance current, even though I was unaware of any outstanding balances as of that date (*See* Exhibit 1 to Gibson Affidavit).

23. Attorney Gibson stated that it was, in fact, his claim that the existence of a small, unpaid balance for his services from myself and Plaza Entertainment, Inc. was his justification for the inexcusable dereliction of his duties to defend myself, Plaza Entertainment, Inc. as well as Charles von Bernuth (Gibson Affidavit, pars 13 – 17). Attorney Gibson had never before made any such claims or filed a motion to withdraw from representation of myself or Plaza Entertainment, Inc. due to non-payment, and in fact, had been receiving payments on a regular basis from statements mailed to myself and to Plaza Entertainment, Inc.

24. Shortly after I received the May 21, 2007 email from Attorney Gibson informing me of the judgments against myself, von Bernuth and Plaza Entertainment, Inc., I in turn informed Charles von Bernuth. It is my understanding that this was the first time that Mr. von Bernuth had been informed by any party that a judgment of more than $2.5 Million had been entered against him.

25. Charles von Bernuth promptly engaged counsel to represent him in the matter.

26. Due to severe financial duress that I've suffered personally as a result of the ongoing Plaza Entertainment, Inc., WRS dispute, including a lien against my earnings and assets by the Internal Revenue Service for Plaza Entertainment, Inc. taxes, I have been unable to afford to engage counsel to represent my interests and defense in this Motion for Reconsideration or Motion for Relief of Judgment. Accordingly, I am representing myself Pro Se.

27. In respect of the merits of the legitimate offsets and counterclaims, including substantial damages caused by WRS to Plaza Entertainment, Inc., an effort to engage Pennsylvania counsel to file a similar motion on behalf of Plaza Entertainment, Inc., as a corporation, is underway.

28. In sum, Attorney Gibson was repeatedly and inexcusably derelict in his nonperformance of his professional duties to provide competent representation to myself and to Plaza Entertainment, Inc., *see* Pennsylvania Rule of Professional Conduct 1.1, to act with a reasonable diligence and promptness in representing myself and Plaza Entertainment, Inc., *see* Pennsylvania Rule of Professional Conduct 1.3, and to keep me informed about the status of the case and explain the case sufficiently to permit me to make informed decisions about the representation, *see* Pennsylvania Rule of Professional Conduct 1.4.

29. Attorney Gibson himself acknowledges that he has "no excuse for [his] failure to properly defend clients for which [he] had entered an appearance that has never been withdrawn... [and] for his conduct in failing to keep [Defendants] informed and advised that a default was being entered against [Defendants] and later that [Defendants] liability was being fixed in an amount in excess of $2.5 Million without opposition by [Attorney Gibson}." (Gibson Affidavit pars. 39, 41).

30. Attorney Gibson's neglect amounted to an abandonment for which Eric Parkinson

and Plaza Entertainment, Inc. were in no way responsible.

31. To permit the judgment against Eric Parkinson and against Plaza Entertainment, Inc. to stand in these circumstances would be an injustice that would undermine public confidence in the administration of justice.

32. This is particularly true due to the existence of numerous meritorious defenses to WRS's claims against the Defendants, which, through dereliction of duties by Attorney Gibson, were not presented to this Court. The principal defenses are described in the Motion for Reconsideration or Motion for Relief of Judgment as was filed with the Court by Attorney James Walker on behalf of co-Defendant Charles von Bernuth, and as were outlined in my letter to the Court of May 28, 2007, docketed as Document No. 148.

WHEREFORE, Defendant Eric Parkinson respectfully requests that this Court enter an Order vacating the judgment against Eric Parkinson as to both liability and damages and thereby affording Eric Parkinson the opportunity to defend on the merits.

Respectfully Submitted,

Eric Parkinson
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Defendant filing Pro Se

Date: January 23, 2008